

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JON B. BATENHORST and)	CASE NO. _____
MINDY BATENHORST,)	
Husband and Wife,)	
)	
Plaintiffs,)	
)	
vs.)	COMPLAINT,
)	JURY DEMAND AND
RHETT J. ECKMANN, M.D.,)	DESIGNATION OF PLACE OF TRIAL
)	
Defendant.)	

Plaintiffs state as follows:

1. Plaintiffs, Jon B. Batenhorst and Mindy Batenhorst, are husband and wife and are citizens of the State of Kansas, residing in Lenexa, Johnson County, Kansas.

2. Defendant, Rhett J. Eckmann, M.D., is a citizen of the State of Nebraska.

3. There is complete diversity between plaintiffs and defendant, and the matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. §1332. The events of this case occurred in West Point, Cuming County, Nebraska; as such, venue and jurisdiction are proper in this Court.

4. Defendant, Rhett J. Eckmann, M.D., is a physician licensed to practice medicine in the State of Nebraska, and at all times material herein, was engaged in the medical specialty known as family practice.

5. That the defendant, at all times herein mentioned, was qualified under the Nebraska Hospital-Medical Liability Act, and that plaintiffs, pursuant to §44-2840(4), waive their right to a panel review and elect to proceed with their Complaint in the United States District Court for the District of Nebraska. Plaintiffs have further complied with §44-2801 et seq. That a copy of this Complaint was mailed certified to the Department of Insurance for the State of Nebraska.

6. On November 14, 2010, plaintiff, Jon B. Batenhorst, was seen in the emergency room at St. Francis Memorial Hospital in West Point, Cuming County, Nebraska. Defendant, Rhett J. Eckmann, M.D., was the physician who was seeing patients in the emergency room at St. Francis Memorial Hospital in West Point, Cuming County, Nebraska on that day. The plaintiff, Jon B. Batenhorst's, chief complaint was the laceration of his right leg. Unfortunately, plaintiff, Jon B. Batenhorst, had accidentally stabbed himself in his right thigh with a knife while cleaning a deer. A history taken by the defendant, Rhett J. Eckmann, M.D., indicated that the knife had slipped and became buried in the lower anterior right thigh of the plaintiff, Jon B. Batenhorst. While being seen in the emergency room, plaintiff, Jon B. Batenhorst, complained of tingling in his right foot and severe spasms in his right thigh muscle.

7. After evaluating the knife wound, defendant, Rhett J. Eckmann, M.D., determined that plaintiff, Jon B. Batenhorst, had sustained a 4 cm. "simple laceration" of his right thigh. Defendant, Rhett J. Eckmann, M.D., irrigated the wound with a half liter of normal saline. Defendant, Rhett J. Eckmann, also explored the wound and determined that the depth of the wound was equivalent to the depth of his index finger. The defendant, Rhett J. Eckmann, M.D., closed the wound and discharged the plaintiff, Jon B. Batenhorst, from the emergency room.

8. At the time of being discharged from the emergency room at St. Francis Memorial Hospital in West Point, Cuming County, Nebraska, plaintiff, Jon B. Batenhorst, was given a prescription for Lortab, a pain medication.

9. On November 20, 2010, plaintiff, Jon B. Batenhourst, was admitted to Olathe Medical Center in Olathe, Kansas for treatment of an abscess which had developed on his right thigh. After being admitted to the emergency room at Olathe Medical Center in Olathe, Kansas, blood was drawn for laboratory analysis and his white blood count was elevated and determined to be 28.47. A CT scan of his right lower extremity showed evidence of a hematoma and an abscess.

10. While hospitalized at Olathe Medical Center, an infectious disease consult was obtained. Plaintiff's wound was cultured and this culture indicated the presence of E. coli. An

antibiotic regime was initiated which included Vancomycin and Meropenem.

11. During this hospitalization, plaintiff, Jon B. Batenhorst, underwent an operative procedure performed by Dr. Daniel Schaper. This surgery consisted of an irrigation, debridement and drainage of the knife wound and abscess in plaintiff, Jon B. Batenhorst's, right thigh.

12. That after being discharged from Olathe Medical Center, plaintiff, Jon B. Batenhorst, underwent physical therapy and a course of antibiotic therapy.

13. That the defendant, Rhett J. Eckmann, M.D., was negligent in his care and treatment of the plaintiff, Jon B. Batenhorst, in each of the following respects:

- a) In failing to prescribe antibiotic therapy for plaintiff, Jon B. Batenhorst;
- b) In closing the wound of plaintiff, Jon B. Batenhorst, prior to placing him on antibiotic therapy;
- c) In failing to place a drain into the site of the wound at the time of the closure of the wound.

14. That as a direct and proximate result of the negligence of the defendant, Rhett J. Eckmann, M.D., the plaintiff, Jon B. Batenhorst, sustained the following by way of damages:

- a) a severe infection and development of a hematoma and abscess which necessitated surgical intervention and hospitalization;
- b) medical bills in the amount of approximately \$80,000.00;

- c) injury to his right leg and thigh;
- d) loss of income in the past, and it is reasonably certain he will sustain a loss of income for an indefinite period of time in the future;
- e) permanent injury;
- f) permanent disability; and
- g) permanent impairment of his earning capacity.

15. That plaintiff's wife, Mindy Batenhorst, as a result of the negligence of the defendant, has sustained a loss of affection, aid, society, companionship, and support, including loss of consortium.

WHEREFORE, plaintiffs pray for judgment against the defendant as follows:

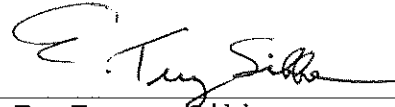
- A) For special damages and general damages in an amount exceeding \$75,000.00;
- B) For post-judgment interest at the maximum legal rate;
- C) For costs of suit incurred herein; and
- D) For such other and further relief as the court deems just and proper.

JURY DEMAND AND DESIGNATION OF PLACE OF TRIAL

Plaintiffs request that this matter be tried to a jury in Omaha, Nebraska.

JON B. BATENHORST and MINDY
BATENHORST, Husband and Wife,
Plaintiffs

By:



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